

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**ELLERY HORSLEY**

150 9<sup>th</sup> Street

Niles, Ohio 44446.

Plaintiff,

v.

**PENTAGROUP FINANCIAL, LLC**

c/o CT CORPORATION SYSTEM

1300 East Ninth Street

Cleveland, Ohio 44114,

Defendant.

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) Case No: 4:12-cv-1324

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) JURY DEMAND REQUESTED

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) **CIVIL COMPLAINT**

) **(Unlawful Debt Collection Practices)**

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**COMPLAINT**

PLAINTIFF, ELLERY HORSLEY (Plaintiff), by his attorneys, KAHN AND ASSOCIATES, L.L.C., alleges the following against DEFENDANT, PENTAGROUP FINANCIAL, LLC (Defendant):

**INTRODUCTION**

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, *15 U.S.C. 1692 et seq.* (FDCPA).

**JURISDICTION AND VENUE**

2. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such actions may be brought and heard before "any appropriate United States district court without regard to the amount in controversy," and *28 U.S.C. 1367* grants this court supplemental jurisdiction over the state claims contained therein.
3. Because Defendant conducts business in Ohio, personal jurisdiction is established.

4. Venue is proper pursuant to 28 *U.S.C. 1391(b)(2)*.

### **PARTIES**

5. Plaintiff is a natural person who resides in the City of Niles, Trumbull County, Ohio and are allegedly obligated to pay a debt, and Plaintiff is a “consumer” as that term is defined by 15 *U.S.C. 1692a(3)*.
6. Pursuant to the definitions outlined in 15 *U.S.C. 1692a(1-6)*, Defendant is a debt collector and sought to collect a consumer debt from Plaintiff which was allegedly due and owing from Plaintiff, and Plaintiff is a consumer debtor.
7. Defendant is a Texas business entity and a debt collector with an office in Houston, Texas.
8. Defendant uses instrumentalities of interstate commerce or the mails in a business the principal purpose of which is the collection of any debts and/or regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another and is a "debt collector" as that term is defined by 15 *U.S.C. § 1692a(6)*.
9. Defendant is a collection agency that in the ordinary course of business, regularly, on behalf of itself or others, engages in debt collection.

### **FACTUAL ALLEGATIONS**

10. For many months preceding March, 2012, Defendant, from its number of 866.341.3451 and referencing account number 1378119451, has placed near daily and often multiple daily phone calls to Plaintiff at his phone number, 330.544.1469, seeking contact with an individual identified by the name of Shannon Oryan as relates to collection of alleged consumer debt.

11. During several direct conversations and certain direct mailings occurring prior to March, 2012, Plaintiff advised the Defendant representative that no one by the name requested lived at or could be accessed via his phone number, and further asked that Defendant remove his number from its contact list and not make further contact of any kind with Plaintiff.
12. Despite Plaintiff's requests that Defendant discontinue its errant, disruptive and harassing contacts to his home, Defendant continued to place calls to and/or otherwise contact the Plaintiff.
13. Defendant's ongoing calls, after being advised that it was calling the wrong number and asked to cease further contact, were made with the intent to harass and annoy Plaintiff as the call recipients.

#### **COUNT I**

#### **DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT**

14. Defendant violated the FDCPA based on the following:
  - a. Defendant violated §1692d by engaging in conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt.
  - b. Defendant violated §1692d(5) by causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.

WHEREFORE, Plaintiff, Ellery Horsley, respectfully requests judgment be entered against Defendant, for the following:

15. Statutory damages of \$1000.00 pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*,
16. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*
17. Any other relief that this Honorable Court deems appropriate.

**DEMAND FOR JURY TRIAL**

Plaintiff, Ellery Horsley, requests a jury trial in this case.

Respectfully submitted,

**KAHN & ASSOCIATES, LLC**

*/s/ David W. Skall*

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